

January 1995

The Virginia Board of

OPTOMETRY

DEPARTMENT OF HEALTH PROFESSIONS

The President's Message

by Robin P. Rinearson, O.D.

PRESCRIPTION RELEASE AND EXPIRATION DATES

Owing to the confusion about prescription release and expiration dates, we feel it is necessary to give you some "plain talk" on the topic.

Federal Trade Commission Rule 456 requires all optometrists and ophthalmologists to release a spectacle prescription once the examination is completed and all fees have been paid. This is something that should be familiar to all of you and has the moniker "Eyeglasses I." There are no requirements to place an expiration date on a spectacle prescription either in the FTC Rule or in our Board Statutes and Regulations. Part III of the Regulations explains what constitutes a prescription and calls failure to comply "unprofessional conduct." Part III also requires that you release a contact lens prescription once fees have been paid and all follow-up care is concluded and no further follow-ups are scheduled for 30 days. Your prescription must have your name, a designation for optometrist, your professional designation (or trade name, if any), the prescription, any special instructions and your signature. You may choose to place an expiration date if appropriate. This applies to spectacle AND contact lens prescriptions.

The term "if appropriate" requires you to use your professional judgment. You should consider a few factors when making this decision of whether to place an expiration date upon this prescription. You must be able to justify the limits of the validity of the prescription based upon clinical findings in your examination, use of the prescription, your knowledge of the patient's needs and compliance, limitations on the effective use of the prescription or its component materials, standards in your geographic area of practice and lastly, your liability.

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Gilbert Named New Board Member, Succeeds Jason

WELCOME, DR. GILBERT

This year the Governor has appointed Lowell H. Gilbert, O.D. of Matoaca as the Board's newest member. Dr. Gilbert assumes the seat vacated by Dr. Stanley L. Jason of Norfolk whose term expired this Summer.

Dr. Gilbert received his Doctor of Optometry from the Southern College of Optometry in 1966 and became licensed in Virginia that year. Dr. Gilbert served as Assistant Chief of the Optometry Clinic at the U.S. Army Hospital in Fort Jackson South Carolina from 1967 to 1969. Since that time he has been in private practice in Colonial Heights.

Among his many professional accolades, Dr. Gilbert has been named Optometrist of the Year (1988) by the Virginia Optometric Association, President of the Virginia Optometric Association (1993-94), Member of the Virginia Academy of Optometry, and Trustee of the Southern Counsel of Optometry which represents 13 Southeastern states.

Dr. Gilbert is also active in many local civic associations including the Lions Club, the American Cancer Society, the Jaycees, the United Fund, and the Colonial Heights Chamber of Commerce.

THANK YOU, DR. JASON

The Board wishes to extend special thanks to Dr. Stanley L. Jason who has served the citizens of the Commonwealth through his tireless efforts on the Board. Dr. Jason's membership spanned nine years, from 1985 until 1994. During that time, he reviewed scores of disciplinary cases, chaired dozens of meetings, served as examiner on countless examinations, and made numerous presentations on behalf of the Board. His work has been greatly appreciated.

6606 WEST BROAD STREET, RICHMOND, VA 23230-1717 TELEPHONE 804/662-9910

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The President's Message (continued)

Professional "standards of care" are not set forth in statutory or regulatory language. Your laws outline the minimum level of competency expected in the profession. They may clearly spell out what you must do or guide you to make a judgment call that must then appear in some notated form on your record.

Without an expiration date, the owner of a prescription can expect to have a never ending supply of product, on demand, until the end of their life without interference from any lawful supplier. The only requirement of the supplier of goods is that it be an accurately filled prescription. Caveat emptor.

It may not be in the patient's best interest to have a prescription filled in perpetuity. As a licensed and learned professional you have the statutory mandate to "protect the health, safety, and welfare of the public."

Should you choose to place an expiration date on a prescription, all suppliers of these goods and devices must comply with the limit date set forth — including YOU, the prescriber. The time limit should be reasonable and consistent. "Standards of care" is the action of the majority of similarly licensed professionals using the same materials under similar circumstances of use as established in your local geographic region.

You may establish different limits for spectacles than for contact lenses. Within the category of contact lens prescription, you may have a variety of time limits set depending on the use of the device and the health and compliance of the patient. This may result in short time limits of 1-2 weeks for a trial lens application, 3-12 months for extended wear or disposable lens application, 6-24 months for daily wear regular or frequent replacement application, etc. These limits are NOT explicitly dictated by either statute or board rules.

It can be argued that since contact lenses are medical devices with moderate potential for harm to the patient, that follow-up care is never concluded so long as the lenses are being used. It is difficult to justify this position in terms of reasonableness. The immediate requirement for completion of follow-up care is deemed to be the point at which YOU, the prescriber would replace a lost or damaged lens or allow for spare sets of lenses to be purchased. A stated exemption is the trial fitting period up to the point where no further follow-up care is scheduled for 30 days.

There is nothing to prohibit you from releasing an expired prescription for informational purposes at the patient's request. You may write in the expiration date, highlight or otherwise make the date obvious or you may write "expired" or other similar notation on

If you have knowledge of persons filling prescriptions beyond the expiration date, substituting products not specifically outlined for the prescription or altering a prescription for fit or power without the knowledge or direction of the prescriber, kindly report this to the Board office for further investigation.

Repeatedly discussed in disciplinary cases is the issue of record keeping. Clarification is in order here, as well.

RECORD KEEPING

Most of us understand the implied requirements of keeping good records. They must be somewhat legible and sufficient information should appear on the chart so as to determine whether there have been physical changes in the patient from one visit to the next. There are specific requirements to put information on the charts that indicate certain categories of evaluation have been completed. This includes acuities, case history, internal and external tissue health and refractive information. This also encompasses "other" information as found to be pertinent and necessary to evaluate the patient, make a diagnosis and/or treatment decision. In the case of a contact lens patient, it includes corneal curvature readings, fit of the lens and contact lens specifications with acuities through the lens(es).

What is not specifically written into the regulations but will be most helpful is for you, the doctor, to consider your records to be the only information that is available on your patient. If you were to be involved in an accident, be disabled and unable to work, need to refer the patient to another practitioner for additional care or have the patient request copies of their records to be sent to another practitioner — there must be enough information on the record for coherent and logical diagnostic and treatment decisions to be made by you or someone else. You cannot rely on your memory for the myriad patients you see over the course of many years of practice. With the advent of increased attention to the minutiae of physical changes and their significance to the early detection and diagnosis of disease, your record should include very specific information. Putting notations of "normal, within normal limits, O.K." have a tendency to be too vague. They do not protect you nor the health of the patient. Most of us understand, for instance, that a change in cup/disc ratio is a significant finding. We understand that if it changes by a reading of .2 from its previous rating, it is very significant. It is impossible to tell from a record that annotates "normal" when these changes occur.

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The President's Message (continued)

When you consider the written information to be too much of a burden, design an exam form where you may simply check off findings as you perform your evaluation of the patient. It is acceptable to use abbreviations for procedures or for findings or results. If you have certain pieces of information that are standard "office procedure" that you hand out to the patient or have the patient sign, a simple notation pre-printed on the chart and then checked off by the provider is sufficient to note that this activity has taken place.

It is equally important to note on the chart when a patient fails to show up for a scheduled appointment or has not demonstrated compliance with eye health issues or contact lens related procedures. Should there be a problem later, you will have shown a good faith effort to care for the patient or re-instruct them or advise them about issues that are pertinent to their eye and overall health. Also keep in mind that a patient may refuse to participate in any portion of your evaluation. This should be noted on the chart as well. There may be times when a patient is willing to participate but you simply cannot obtain reliable findings. This should also be noted.

As always, if you have any questions, please contact the Board office.

Rehabilitation Service Providers Required to Hold Valid Certificate

The 1994 General Assembly enacted legislation (§54.1-3513 of the Code of Virginia) requiring the Board of Professional Counselors to certify rehabilitation providers.

A "Rehabilitation provider," as defined in the code is a person who, functioning within the scope of his practice, performs, coordinates, manages, or arranges for rehabilitation services. "Rehabilitation services" include evaluation, assessment, training services, services to family members, interpreter services, rehabilitation teaching, coordination or telecommunications, placement in suitable employment, post-employment services and other related services provided to a person with a disability for the purpose of restoring the person's productive capacity. In addition, §65.2-603 of the Code states that vocational evaluation, counseling, job coaching, job development, job placement, on-the-job training, education and retraining must be certified to provide services in accordance with the Workman's Compensation mandate.

No one other than a person licensed by the Board of Optometry, Medicine, Nursing, Professional Counselors, Psychology, or Social Work may hold himself out as a provider of rehabilitation services unless he holds a valid certificate. The Board of

Professional Counselors will issue this certification to any person who was actively engaged in providing rehabilitation services on January 1, 1994 provided that that Board receives a completed application before June 30, 1995.

To request an application or to ask any questions relating to Rehabilitation Provider Certification, please contact the Rehabilitation Provider Certification Program, Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575.

Legislative Proposal to Require Diagnostic Pharmaceutical Agents Certification of New Licensees

The Virginia Board of Optometry intends to propose to the 1995 General Assembly legislation that would require diagnostic pharmaceutical competency of all new applicants for licensure beginning July 1, 1996.

Over the past three decades, the use of diagnostic pharmaceutical agents (DPAs) has become an integral part of optometric training and testing. Under present Virginia law, applicants for licensure who wish to use DPAs must complete two separate application procedures, with two fees, and two examinations. Further, to administer the current two-tiered system of licensure (i.e., those with and without DPA certification), the Board must review and track separate application, examination, fee processing, and permitting activities.

When the statute was passed to allow DPA use by optometrists, a comparable DPA examination did not exist. However, since 1993, this has become a duplication of effort and a needless expense to applicants and the Board. The Virginia Board and 46 other optometry boards already require licensure applicants to pass various sections of the National Board of Examiners in Optometry (NBEO) examination. Since 1993, the NBEO test has incorporated DPA questions into two sections of the national examination which encompass the same content domains as that covered in the Virginia Board's DPA Certification Examination.

Allowing the Board to *accept* this examination rather than have to *administer* a second examination would afford it the flexibility to allow new applicants to take either DPA testing, as they choose. Because new graduates will be taking the NBEO regardless, they will more likely choose the NBEO option. It is envisioned that the Board's DPA Certification Examination will eventually be eliminated due to lack of demand.

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Legislative Proposal to Require Diagnostic Pharmaceutical Agents Certification of New Licensees (continued)

The added expense and effort required to become DPA certified in Virginia appears to be having a chilling effect. Applications have dropped consistently over the past few years while surrounding states that have accepted NBEO's scores are either experiencing a steady flow of candidates for licensure or have an upturn in numbers. For example, in 1991, Virginia had 86 applicants; in 1992, it had 73; in 1993 it had 48, and this year only 40 applicants have applied for licensure. Maryland's and Georgia's numbers have remained steady for the past several years while North Carolina's numbers have risen dramatically (350% increase). At the same time, West Virginia administers an additional DPA examination and has experienced a substantial drop in candidates.

To continue to promote the public's access to optometric care in Virginia, the Board believed this proposal was absolutely necessary. Because virtually all new applicants for licensure also seek DPA Certification, the Board views this proposal as reflecting what is already a national trend in the profession, and it serves as a means to reduce an unnecessary regulatory burden.

Virginia Department for the Visually Handicapped

The Virginia Department for the Visually Handicapped was established by an act of the General Assembly in 1922. The mission of the Virginia Department for the Visually Handicapped is to provide services as necessary to enable individuals with visual disabilities to achieve their maximum level of independence and participation in society. Services are provided to individuals of all ages, and include orientation and mobility instruction, braille instruction, instruction and support to children and parents, vocational counseling and training, daily living skills instruction, a library program and low vision examinations. If you know a blind or visually impaired infant, child, or adult who might benefit from these services, please call 1-800-622-2155, or write 397 Azalea Ave., Richmond, VA 23227

TPA Formulary

Optometrists with Therapeutic Pharmaceutical Agents Certification from the Board of Medicine have been granted the use of Levocabastine.

Effective October 25, 1994, the Virginia Board of Medicine's Certification for Optometrists §4.3 which

lists therapeutic agents which certified optometrists may administer and prescribe was officially amended to include Levocabastine.

If you have any questions, please contact the Board of Medicine at (804) 662-7664.

Disciplinary Actions

The Board has closed the following disciplinary cases since the last newsletter (December 1993):

LICENSEE: Samuel R. Baylus, O.D. of Norfolk, VA. Failed to record the visual acuity for a contact lens patient and failed to provide that patient with directions for the care and handling of contact lenses as well as with adequate instruction for wearing contact lenses and their possible effect on eye health and vision.

DISCIPLINARY ACTION: \$250 Penalty and Reprimand.

LICENSEE: Angela G. Bevels, O.D. of Hampton, VA. Failed to pay the prescribed \$50 professional designation registration fee for each location before she began using her professional designation at a location. Further, she failed to use the professional designation "Better Vision/Optomety" in its entirety, using "Better Vision" instead. Also, her practice opening announcement did not identify Dr. Bevels as an "O.D." or "optometrist."

DISCIPLINARY ACTION: \$200 Penalty.

LICENSEE: Shari R. Graber, O.D. of Virginia Beach, VA. Issued prescriptions for ophthalmic lenses which did not include her printed name as the prescribing optometrist.

DISCIPLINARY ACTION: No Sanction.

LICENSEE: John M. Greene, O.D. of Richmond, VA. Failed to maintain adequate records in that he did not indicate that he completed an eye health exam or that he checked the patient's eyes for visual acuity. Further he changed the base curves of the original prescription without documenting the reason for the change. Also, he dispensed a new contact lens for a patient without first assuring proper fit and without providing the patient with directions for the handling of the lenses as well as a wearing schedule.

DISCIPLINARY ACTION: \$250 Penalty and Reprimand.

LICENSEE: Samuel R. Kim, O.D. of Arlington, VA. Practiced optometry in the Commonwealth without benefit of a valid or current license. Further, he allowed a non optometrist to supervise his practice and influence his professional judgement. Also, he allowed false and misleading advertisements to be made which indicated he was a licensed optometrist

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Disciplinary Actions (continued)

in Virginia.

DISCIPLINARY ACTION: Reprimand and, upon licensure in Virginia, he is to be placed on Indefinite Probation for not less than two years.

LICENSEE: Marcia K. Leverett, O.D. of Virginia Beach, VA. Practiced optometry as a lessee of a mercantile establishment. Further, she allowed employees of the mercantile establishment to have access to her patient records and to dispense contact lenses from her office in her absence.

DISCIPLINARY ACTION: \$250 Penalty, Reprimand, and Corrective Action to obtain a suitable leasing arrangement.

LICENSEE: Blake R. Mitnick, O.D. of Martinsville, VA. Provided substandard care to a patient in that he failed to perform those procedures which were indicated by the subjective complaint of the patient. Further, he failed to keep adequate records regarding the patient's diagnosis, treatment and procedures performed.

DISCIPLINARY ACTION: \$250 Penalty, Reprimand, and Unannounced Inspection

LICENSEE: Frederick R. Siegel, O.D. of Arlington, VA. Failed to pay a \$50 registration fee for a professional designation application and advertised and practiced under that designation before the fee was paid.

DISCIPLINARY ACTION: \$300 Penalty and Reprimand

LICENSEE: Irving R. Siegel, O.D. of Arlington, VA. Failed to pay a \$50 registration fee for a professional designation application and advertised and practiced under that designation before the fee was paid.

DISCIPLINARY ACTION: \$300 Penalty and Reprimand

Do You Know Where They Are?

Board Regulation §5.1.A. requires each licensee to assure that the Board has his or her current address. All changes of mailing address or name are to be furnished to the Board within five days after the change occurs.

Renewal notices for the following licensees were returned to the Board office because of incorrect addresses. If you know any of these individuals, please have them contact the Board office.

David C. Canfield, O.D.	Mansfield, OH
Joel E. Cooley, O.D.	Chesapeake, VA
Rachel A. Coulter, O.D.	Philadelphia, PA
Steven I. Glassband, O.D.	Baltimore, MD

1995 CALENDAR

January 11	Informal Conferences Richmond - DHP Conference Room 4
January 19	State Board Examination Diagnostic Pharmaceutical Agents Certification Examination Richmond - DHP Conference Room 2
February 8	Board Meeting Richmond - DHP Conference Room 4
March 15	Informal Conferences Richmond - DHP Conference Room 4
April 19	Informal Conferences Richmond - DHP Conference Room 4
May 18	Board Meeting Richmond - DHP Conference Room 4
June 7	Informal Conferences Richmond - DHP Conference Room 4
July 26	Informal Conferences Richmond - DHP Conference Room 4
July 27	State Board Examination Diagnostic Pharmaceutical Agents Certification Examination Location to be determined
August 30	Board Meeting Richmond - DHP Conference Room 4
September 20	Informal Conferences Richmond - DHP Conference Room 4
October 18	Informal Conferences Richmond - DHP Conference Room 4
November 15	Board Meeting Richmond - DHP Conference Room 4
December 6	Informal Conferences Richmond - DHP Conference Room 4

Late Renewals

Of the over 1,150 licensees in Virginia, only (28) or 2.4% did not renew licenses by October 31st. The Board office was not in receipt of the following individuals' renewal applications and prescribed fees by the October 31 postmark deadline.

Timothy G. Albert, O.D.	Silver Spring, MD
Christopher D. Bateman, O.D.	Germantown, MD
Alvin J. Baum, O.D.	Richmond, VA
Daniel T. Beck, O.D.	Indiana, PA
Michael Beckerman, O.D.	Anchorage, AK
Leroy W. Bentham, O.D.	Brooklyn, NY
David C. Canfield, O.D.	Mansfield, OH
Joe A. Chambers, O.D.	Erwin, TN
Rachel A. Coulter, O.D.	Philadelphia, PA
Janine L. Davis, O.D.	Port Carbon, PA
Louis A. Espejo, O.D.	Burke, VA
Kenneth Gasworth, O.D.	Closter, NJ
Robert F. Gilligan, O.D.	Columbia, MD
Steven I. Glassband, O.D.	Baltimore, MD
Robert M. Greenburg, O.D.	Reston, VA
David D. Heavner, O.D.	Ellicott City, MD
Terri A. Jones, O.D.	Baltimore, MD
Meade H. Kendrick, O.D.	Germantown, TN
Gary W. Lehman, O.D.	Chesapeake, VA
Brad S. Lindsey, O.D.	Morristown, TN
Matthew A. McLin, O.D.	Hershey, PA
Alan H. Miles, O.D.	W. Melbourne, FL
John S. Pockl, O.D.	Columbia, SC
Veena C. Saini, O.D.	Brookline, MA
Robert A. Scarborough, O.D.	Brentwood, TN
Steven J. Trombley, O.D.	Standish, MI
John B. VanGinhoven, O.D.	Wilton Manors, FL
Frank Weiss, O.D.	Tuscon, AZ

In order for an optometrist in the above list to maintain licensure in Virginia, the renewal application and renewal fee as well as a \$100 late fee must have been postmarked for Board office delivery no later than November 30, 1994. After that date, the license automatically lapses and to practice in Virginia, the optometrist must make a formal request for reinstatement. If you have any questions, please contact the Board office at (804) 662-9910.

ERRATA

In the Board's last newsletter, we incorrectly listed Julie M. Fitzgerald, O.D. of Alexandria, VA as renewing her license late. We apologize for the error.

Registered Professional Designations

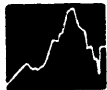
The following 45 optometric practices have been duly registered their Professional Designations with the Board as required by §4.1 of the Regulations.

20/20 Eyecare/Optometrists	245B Newmarket Fair	Newport News
20/20 Eyecare/Optometrists	Patrick Henry Location	Newport News
20/20 Optometry	210 Zan Road	Charlottesville
Accomac Optometric Center	Ames Plaza	Onley
Adkins Eyecare Center, Dr. Allan Adkins, Optometrist	P. O. Box 1440	Grundy
Albemarle Optometric Center	257 Ridge & McIntyre Rd	Charlottesville
Allegheny Optometry B-4 Apple Blossom Corners Shopping Center		Winchester
Blue Ridge Eye Associates, Dr. Diane Cowger, Optometrist	1790-136 East Market Street	Harrisonburg
Centreville Eye Care Center, Dr. Moore, Optometrist	5760 Union Mill Road	Clifton
Chesterfield Optometric Center	6417 Chesterfield Meadow Drive, POB 1118	Chesterfield
Clearly Optometry	200 W. Grace Street	Richmond
Commonwealth Vision Center, Optometrists, P.C.	10174 West Broad Street	Richmond
Crestwood Optometric Associates	10660 Crestwood Drive	Manassas
Drs. Blum, Newman, Blackstock & Associates Optometrists/Lynchburg Optical	130-B. Main St	Bedford
Eye Care Optometric Center	29 West Main St. Old Towne Mall	Bedford
Eye Wear Plus Optometric Center	101 Tewning Road	Williamsburg
Eyeglass Express Optometrists, P.C.	River Ridge Mall 3405 Candler Mt. Rd	Lynchburg
Fairfax Optometric Center	11280 James Swart Circle	Fairfax
Falls Church Optometry	900 S. Washington, Suite 102	Falls Church
Greenbrier Eye Care Center, Christopher C. Fusco, O.D.	1312 Greenbrier Parkway, Suite 102	Chesapeake
Hanover Family Optometry	6300 Chamberlayne Road	Mechanicsville
Hour Eyes/Optometrists	3524 S. Jefferson St	Bailey's Crossroads
James River Eye Associates: Family Practice Optometry, P.C.	6714 Patterson Avenue	Richmond
Optical World Optometrists	South Park Mall 370 South Park Circle	Colonial Heights
Optical World Optometrists	Charlottesville Fashion Square, Space C16	Charlottesville
Optical World Optometrists	River Ridge Mall	Lynchburg
Optical World Optometrists	Valley View Mall	Roanoke
Optical World Optometrists	New River Valley Mall	Christiansburg
Optometric Eye Care Associates	5765-L Burke Center Parkway	Burke
Optometric Eye Care Associates	3800 N. Fairfax Drive	Arlington
Optometric Eye Care Associates	14245 Centreville Sq	Centreville
Parham Optometric Center	3114 Parham Road	Richmond
Patterson Eye Clinic, Optometrists	5419 Patterson Ave	Richmond
Pembroke Optometric Associates Dr. Donald J. Stiles	Pembroke Mall	Virginia Beach
Personal Eyes Optical, Dr. Andrew S. Miller, O.D.	4000 Virginia Beach Blvd	Virginia Beach
Singer/Specs Optometrists	463 Oriana Road	Newport News
Southside Optometric Eye Center	3731-A Boulevard	Colonial Heights
The Contact Lens Associates/Optometrists	8350 Traford Lane	Springfield
The Eyecare Center/Optometrists	13320-H Franklin Farms Road	Hemdon
The Family Optometric Center	95 West Mercury Blvd	Hampton
The Optometry Group--Eyear Optical	1550 Park Avenue, NW	Norton
Village Optometric Center	1471 Chain Bridge Road	McLean
Vision Health Family Optometry Center	5224 Indian River Road, Suite 101	Virginia Beach
Zelman Associates, P.C. Doctors of Optometry	2972C Chain Bridge Road	Oakton
Zelman Associates, P.C. Doctors of Optometry	11484 Washington Plaza West	Reston

If you have any questions about the use of Professional Designations -- their titling, registration, renewal or anything else, please contact the Board office at (804) 662-9910.

**Virginia Board of Optometry
6606 West Broad St.
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Department of Health Professions